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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,920	09/22/2003	Dimitrios Manoussakis	3896-030965 (P-6015)	9903
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THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			EXAMINER ROY, ANURADHA	
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			3736	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/667,920	Applicant(s) MANOUSSAKIS, DIMITRIOS	
	Examiner Anuradha Roy	Art Unit 3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/3/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-18, 20-30, 32-38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-18, 20-30, 32-38, & 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The former 35 U.S.C. 102(b) rejection made in the previous office action of November 4, 2005 is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-7, 10, 11, 17, 18, 37, & 38 are rejected under 35 U.S.C. 103(a) as being anticipated by Columbus (US Patent No. 4,050,451) in view of Marzolf et al. (US Patent No. 4,934,379).

Regarding claims 1 & 17, Columbus discloses a specimen collection container comprising: a collection container (assembly in Figure 2) comprising a non-evacuated collection tube (32 & Column 5, lines 36-46) including a cylindrical tubular wall extending between an open top end and an open bottom end (32) defining an interior chamber there between, a piercible closure (38) sealing said open top end of said collection tube, and a venting closure (42 & 38; 120 & 122) sealing said open bottom end of said collection tube, said venting closure adapted for

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displacement of air from said interior chamber of said collection tube to an exterior of said collection tube during collection of a liquid sample within said interior chamber of said collection tube. Columbus also discloses a second embodiment having a venting aperture and passageway (120 & 122) that seals on contact with a gel (44b & Column 9, lines 32-63).

However, Columbus does not disclose a vent adapted to seal upon direct contact with the liquid sample. Marzolf et al., however, teaches of a vent sealing upon contact with a liquid sample (Column 3, lines 40-49). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Marzolf et al. to have a vent with sealing capabilities upon contact with the liquid sample with Columbus in order to prevent any leakage of the liquid sample or to prevent any contaminants from entering.

Furthermore, regarding claim 37, Columbus discloses a method for collecting a biological sample comprising the steps of: a) providing a non-evacuated collection tube (assembly of Figure 2) including a vent (42 & 38; 120 & 122) adapted for displacement of air from within said collection tube to an exterior environment and a piercible closure (38) providing access to the interior of said collection tube; b) accessing the interior of said collection tube through said piercible closure (11 & 38); and c) transferring a biological sample through said piercible closure into said interior of said collection tube (11, 32, & 38) such that any air present within said interior of said collection tube will vent (42 & 38; 120 & 122) to the exterior environment through said vent during such transferring step. As mentioned above, Columbus also discloses a second embodiment, wherein a venting aperture and passageway (120 & 122) seal upon contact with a gel (44b & Column 9, lines 32-63). However, Columbus does not disclose a vent adapted to seal upon direct contact with the liquid sample. Marzolf et al., however, teaches of a vent

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sealing upon contact with a liquid sample (Column 3, lines 40-49). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Marzolf et al. to have a vent with sealing capabilities upon contact with the liquid sample with Columbus in order to prevent any leakage of the liquid sample or to prevent any contaminants from entering.

Regarding claim 38, Columbus discloses a method, wherein said accessing step comprises establishing fluid communication between a blood vessel of a patient and the interior of said collection tube (11 & 32), such that blood pressure causes transferring of blood from the blood vessel to the interior of the collection tube (Column 5, lines 36-46).

With regards to claims 2, 3, & 18, Columbus discloses a specimen collection container, wherein said vent (42 & 38; 120 & 122) is adapted for maintaining said interior chamber at ambient pressure prior to collection of a sample within said interior chamber, further comprising a two-way vent (Column 5, lines 11-20).

Regarding claim 5, 6 & 7, Columbus discloses a specimen collection container, wherein said bottom end (36) of said collection container is open, said specimen collection container further comprising a bottom closure sealing (38) said open bottom end of said collection tube with said vent extending through at least a portion of said bottom closure (42). Furthermore, Columbus discloses a specimen collection container, wherein said top closure (38) is removably attached to said open top end (34) of said collection tube and said bottom closure (38) is removably attached to said bottom end (36) of said collection tube and comprises a hybrid stopper (38) removably attachable to said open bottom end.

Regarding claims 10 & 11, Columbus discloses a specimen collection container, wherein said vent (42 & 38; 120 & 122) extends through at least a portion of said piercible closure and the piercible closure comprises a hybrid stopper (38) removably attachable to said open top end (34).

Additional Claim Rejections - 35 USC § 103

Claims 8, 9, 12-16, 20-30, 32-36, & 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Columbus in view Marzolf et al., and further in view of Bodner et al. (US Patent No. 6,805,842).

Regarding claims 14, 15, 16, 22, 23, 24, 25, 26, 27, 28, & 40, Columbus in view of Marzolf et al. discloses a specimen collection container comprising a non-evacuated collection tube (Columbus, 32 & Column 5, lines 36-46) including a cylindrical tubular wall (Columbus, 32) extending between an open top end and an open bottom end defining an interior chamber therebetween, a piercible closure (Columbus, 38) sealing said open top end of said collection tube, and a venting closure (Columbus, 42 & 38 & Marzolf et al., Column 3, lines 40-49) sealing said open bottom end of said collection tube, said venting closure adapted for displacement of air from said interior chamber of said collection tube to an exterior of said collection tube during collection of a liquid sample within said interior chamber of said collection tube. Columbus in view of Marzolf et al., however, does not disclose the use of an internal container, or expandable bag, positioned within the interior chamber of said collection tube and in sealed engagement with said open top end of said collection tube where the internal container establishes a closed environment for containment of a liquid sample. Furthermore, Columbus in view of Marzolf et al. does not teach of the expandable bag mated with the top end of said collection tube and the

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piercible closure. However, Bodner et al. discloses, the use of an internal container, or expandable bag (160), positioned within the interior chamber of said collection tube and in sealed engagement with said open top end of said collection tube (Column 2, lines 66-67 & Column 3, lines 1-3), said internal container establishing a closed environment for containment of a liquid sample. Bodner also teaches of the expandable bag (160) mated with the top end of said collection tube and the piercible closure (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Bodner to include an expandable bag with Columbus in view of Marzolf et al. in order for the collection container to be "substantially reducible to the volume of liquid contained within it and is substantially devoid of air or of the external atmosphere" (Column 3, lines 10-13).

Regarding claims 8, 12, 20, & 35, Columbus in view of Marzolf et al. discloses specimen collection container with the aforementioned elements and a venting filter (Columbus, 44). However, Columbus in view of Marzolf et al. fails to directly disclose a hybrid stopper comprised of an elastomeric material. Bodner et al, however, further discloses the use of an elastomeric material for the hybrid stopper (Column 4, lines 27-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Bodner to use an elastomeric material with Columbus in view of Marzolf et al. in order to establish a self-sealing property on the membrane in order to ensures that air does not enter the expandable bag, thereby minimizing evaporation.

Regarding claims 9, 13, 21, & 36, Columbus in view of Marzolf et al. discloses a specimen collection container, wherein said venting filter comprises a material selected from the

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group consisting of high density polyethylene and high density polypropylene (Columbus, Column 6, lines 16-19).

Regarding claims 29, 30, & 31; Columbus in view of Marzolf et al. discloses a specimen collection container, wherein said vent (Columbus, 42 & 38; 120 & 122) is adapted for maintaining said interior chamber at ambient pressure prior to collection of a sample within said interior chamber, further comprising a two-way vent, wherein said vent is adapted to seal upon contact with said liquid sample so as to prevent said displacement of air (Columbus, Column 5, lines 11-20).

Regarding claims 32, 33, & 34, Columbus discloses a specimen collection container, wherein said bottom end (Columbus, 36) of said collection container is open, said specimen collection container further comprising a bottom closure sealing (Columbus, 38) said open bottom end of said collection tube with said vent extending through at least a portion of said bottom closure (Columbus, 42 & 38; 120 & 122). Furthermore, Columbus discloses a specimen collection container, wherein said top closure (Columbus, 38) is removably attached to said open top end (34) of said collection tube and said bottom closure (Columbus, 38) is removably attached to said bottom end (Columbus, 36) of said collection tube and comprises a hybrid stopper (Columbus, 38) removably attachable to said open bottom end.

Response to Argument

Applicant's arguments with respect to claims 1-3, 5-18, 20-30, 32-38, & 40 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anuradha Roy whose telephone number is (571) 272-6169 and whose email address is anuradha.roy@uspto.gov. The examiner can normally be reached between 8:00am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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